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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 RICKY WAYNE EVERETT,

12 Plaintiff,

13 v.

14 C/O HULBERT, SERGEANT WISTIE,
15 C/O KLAUK, C/O JEFFREY H.
16 SANDERS,

Defendants.

CASE NO. 11-5775 RJB

ORDER ON MOTION TO AMEND
AND ADOPTING REPORT AND
RECOMMENDATION

17 This matter comes before the Court on the Report and Recommendation of U.S.
18 Magistrate Judge J. Richard Creatura (Dkt. 7) and Plaintiff's motion to amend (Dkt. 10). The
19 Court has considered the motions and the record.

20 On September 23, 2011, Plaintiff filed this case citing 42 U.S.C. § 1983. Dkt. 1.
21 Plaintiff challenges his loss of good time. *Id.* On October 7, 2011, the Report and
22 Recommendation was filed, recommending dismissal, without prejudice, because the claims are
23 barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). Dkt. 7. On October 24, 2011, Plaintiff filed
24 a pleading, noting that the Report and Recommendation was captioned "C/O Hulbert, *et al.*," as

1 “Defendants” and requesting the Court add the Defendants originally named in the Complaint.
2 Dkt. 10. This pleading should be construed as a motion to amend.

3 Plaintiff’s motion to amend (Dkt.10) should be denied. These parties were named as
4 Defendants in the Complaint. Dkt. 1. To clarify, the use of “et al” in the caption of an order or
5 pleading is used to mean “and others.”

6 Further, the Report and Recommendation (Dkt. 7) should be adopted and the case
7 dismissed without prejudice. Plaintiff’s claim challenges the duration of confinement, and is not
8 properly asserted as a § 1983 claim. *Heck v. Humphrey*, 512 U.S. 477 (1994).

9 It is **ORDERED** that:

- 10 • Plaintiff’s motion to amend (Dkt. 10) **IS DENIED**;
- 11 • The Report and Recommendation (Dkt.7) **IS ADOPTED**;
- 12 • This case is **DISMISSED WITHOUT PREJUDICE**.

13 The Clerk is directed to send uncertified copies of this Order to U.S. Magistrate Judge J.
14 Richard Creatura, all counsel of record, and to any party appearing *pro se* at said party’s last
15 known address.

16 Dated this 21st day of November, 2011.

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19 ROBERT J. BRYAN
20 United States District Judge
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